

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the matter of

**Improving Public Safety
Communications in the 800 MHz Band
and Consolidating the 900 MHz
Industrial/Land Transportation
and Business Pool Channels**

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WT Docket No. 02-55

**REPLY COMMENTS OF THE
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

INTRODUCTION AND SUMMARY

The National Rural Electric Cooperative Association (“NRECA”) is pleased to submit these reply comments in the above captioned proceeding¹. NRECA is the not-for-profit, national service organization representing 930 rural electric systems, which serve 35 million customers, or approximately 12 percent of the U.S. population. Rural electric cooperatives are located in 46 states and their service areas cover three quarters of the nation’s landmass, including some of the nation’s most rural and remote areas.

NRECA’s members depend upon reliable communications systems to safely operate, monitor, control and repair their electric systems. At least 90 of NRECA’s members currently operate wireless communications systems within the 800 MHz spectrum band. NRECA’s members are a part of the nation’s critical infrastructure, providing essential

¹ See *Improving Public Safety Communications in the 800 MHz Band and Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, Proposed Rule*, WT Docket No. 02-55, 67 Fed. Reg. 16,351 (Apr. 5, 2002) (NPRM).

electric service. Nearly all of NRECA's members fall within the classification of a "small utility" firm as defined by the Small Business Administration.

In these reply comments, NRECA identifies several issues in which other parties' expressed views consistent with those expressed by NRECA in its initial comments filed in this proceeding. NRECA also continues to urge the Commission to reject Nextel's proposal and consider alternative proposals, particularly the compromise proposal being offered by the Private Wireless Coalition, and technical solutions, such as those suggested by the United Telecom Council ("UTC"). The Commission must also provide, with specificity, a plan for funding any required relocations of displaced 800 MHz licensees. Upon review of the comments filed to date in this proceeding and discussions with UTC and the Private Wireless Coalition ("Coalition"), NRECA feels even more strongly that a better alternative exists—one that will both address harmful interference and satisfy the Commission's goals—than the unnecessarily costly, burdensome and inadequate interference solution originally offered by Nextel in its white paper.

DISCUSSION

I. NRECA IS SUPPORTIVE OF THE ONGOING EFFORTS TO CRAFT A COMPROMISE PROPOSAL AS AN ALTERNATIVE TO NEXTEL'S ORIGINAL PROPOSED PLAN, THOUGH NRECA CONTINUES TO BELIEVE THAT FURTHER STUDY OF THE INTERFERENCE PROBLEM WOULD BE BENEFICIAL.

NRECA has been following closely the negotiations and discussion of ideas that have ensued since the initiation of this rulemaking among the Coalition members and Nextel ("Compromise Plan"). While NRECA continues to believe that further

investigation into the causes and possible site-specific resolutions to interference is needed, we recognize the Commission's desire to act quickly to resolve the public safety interference problem and the apparent consensus that is building that a workable rebanding plan can be crafted. With those considerations in mind, NRECA is prepared to support a rebanding plan, such as the Compromise Plan, which minimizes the disruption to incumbent 800 MHz licensees and is conditioned on displaced incumbent licensees not bearing the burden of their relocation costs.

The Compromise Plan, as we understand it, would only require those licensees operating 806.0001-809.0000/851.0001-854.0000 MHz spectrum block to relocate to higher frequencies within the band. NRECA's preliminary estimates are, that under the Compromise Plan, less than 10 of its members who operate in the 800 MHz spectrum band would be required to relocate within the band. Further, among those that would be displaced, only two so far have indicated to NRECA that they would need to replace their communications equipment. This is because their equipment cannot be retuned to function within the designated replacement spectrum blocks, i.e. to the 814–816/859–861 MHz Guard Band block, or if space is not available there, to greenspace in the 809–814/854–859 MHz band. Therefore, because most of NRECA's members who use 800 MHz frequencies would not be disrupted by the Compromise Plan, it is a proposal that NRECA could support, provided that gaps in the current proposal are addressed and are responsive to our members' needs and concerns.

While the Compromise Proposal appears to be the most workable bandplan option being offered at this time, the immense undertaking of rebanding the 800 MHz spectrum band and its attendant implementation and coordination issues can not be overstated.

Most commenters, particularly public safety, critical infrastructure providers and private mobile radio service users, expressed concern about the likely disruption such a wholesale relocation would cause on their operations.² For public safety systems and critical infrastructure providers, such disruptions do not result merely in terms of lost productivity or revenues, but in the endangerment of public safety and devastating property damage. Given the seriousness of the consequences of disruption, redundant systems would need to be employed during the transition period, adding greater burden and expense.

NRECA therefore continues to suggest that a prudent course for the Commission in this rulemaking would be to first explore whether less burdensome approaches can be taken to address harmful interference. Many of the initial comments filed in response to the NPRM suggest, as NRECA did, that the Commission simply does not have yet all the information necessary to adequately inform its decisionmaking in this rulemaking.³

Numerous commenters ask that the Commission consider further the causes of interference and possible technical solutions rather than adopt a wholesale rebanding at

² See e.g. comments of New York City Transit Authority, UTC, Entergy, SCANA Corporation, Cinergy, Consumers Energy, American Water Works Association, Exelon, Pinnacle West Capital Corporation, American Electric Power Co., Duke Energy, Xcel Energy, Washington Electric Membership Corporation, White County Rural Electric Membership Corporation, Boone Electric Cooperative, Jones Onslow Electric Membership Corporation, FEM Electric Association, Holy Cross Electric Association, Kankakee Valley Rural Electric Membership Corporation, Southwest Louisiana Electric Membership Corporation, Rutherford Electric Membership Corporation, Sioux Valley Southwestern Electric, Renville Sibley Cooperative Power Association, East River Electric Power Cooperative, Traverse Electric Cooperative, Bon Homme Yankton Electric Association, Codington-Clark Electric Cooperative, Southeastern Electric Cooperative, National Rural Telecommunications Cooperative, Lubrizol, Ad Hoc Wireless Coalition, ISG Cleveland, Inc., ProCom Service Corp., AVR Inc., Verizon, Focus 2000 Communications, C&M Communications Inc., and UTAM Inc. and joint comments of Cingular Wireless & Alltel Communications, and of DelMarva Power & Light Co. and Atlantic City Electric.

³ See e.g. joint comments of Delmarva Power & Light Co. and Atlantic City Electric, and comments of American Petroleum Institute, American Mobile Telecommunications Association, UTC, Consumers Energy, Cinergy, Xcel Energy, and Kenwood Communications Corporation.

the outset.⁴ While NRECA understands the Commission's desire to act quickly and decisively in this rulemaking, we support UTC's suggestions for enhanced technical rules and standards that will address a considerable amount of interference, coupled with a case-by-case resolution process discussed in more detail below, as a preferable solution.

II. SEVERAL COMMENTERS NOTED, LIKE NRECA, THAT THEY ARE BEING ASKED TO SOLVE A PROBLEM THAT THEY DID NOT CREATE.

A. Licensees who stand to only be burdened and not benefited by relocation should not be asked to pay the costs of relocation.

As we noted in our initial comments, NRECA has not discovered any instances in which a rural electric cooperative is causing interference to a public safety system.⁵ Initial comments filed by numerous other parties also point out that they are not the source of interference, and most also identified Nextel's and other cellular carriers' system architecture as the main source of interference.⁶ NRECA's initial comments also stated that rural electric cooperatives are not currently experiencing harmful interference

⁴ See e.g. comments of State of Florida, Access Spectrum, Motient Communications, NAM/MRFAC, Kenwood Communications Corporation, Association of American Railroads, Blooston Mordkofsky Dickens Duffy and Prendergast on behalf of private wireless clients, American Petroleum Institute, Kankakee Valley Rural Electric Membership Corporation, Holy Cross Electric Association, White County Rural Electric Membership Corporation, Jones Onslow Electric Membership Corporation, Washington Electric Membership Corporation, Boone Electric Cooperative, Southwest Louisiana Electric Membership Corporation, National Rural Telecommunications Cooperative, Pinnacle West Capital Corporation, American Electric Power Co., ISG Cleveland, and joint comments of Delmarva Power & Light Co. and Atlantic City Electric.

⁵ NRECA comments at p. 7.

⁶ See e.g. comments of Public Safety Wireless Network Program, City of Portland, Department of Information Technology for Fairfax County Virginia, City of Baltimore, San Francisco Bay Area Rapid Transit District, City of Newport News, Madison County East Transit District, Snohomish County Washington, American Petroleum Institute, UTC, American Water Works Association, American Electric Power Co., Duke Energy, Entergy, SCANA Corporation, Cinergy, Sid Richardson Energy Services, Intel Corporation, AVR Inc., C&M Communications, Fresno Mobile Radio, Fischer Wireless Services, AT&T Wireless, ISG Cleveland, Preferred Communications Systems, Island SMR, Commercial Radio & Television Inc., National Ready Mixed Concrete Association, Supreme Radio Communications, Skitronics LLC, Motorola, and joint comments of Carolina Power & Light and TXU Business Services, of Palomar Communications et. al., of Jamestown Communications and Midwest Management, and of Cingular Wireless and Alltel Communications.

on their systems.⁷ Our members are not unique. For example, the American Petroleum Institute also noted a similar experience for its members.⁸ If licensees are reporting that they are not causing interference, nor experiencing it themselves, then why should these parties be asked to carry the burden and cost to solve the interference problem? As noted by Lockheed Martin in its initial comments, “Commission precedent requires that there be a nexus between the parties paying for relocation and those either receiving the benefit of it or those causing it.”⁹

B. In rural areas, interference is not occurring and is unlikely to occur, and therefore different treatment for licensees operating in such areas should be considered.

The Commission notes in the NPRM that many instances of interference that are being documented are occurring in urban areas.¹⁰ While the Commission notes that “CMRS carriers will continue enhancing their systems and constructing facilities in less densely populated areas,”¹¹ NRECA submits that there are some areas of the nation where population density is so low that it is unlikely that such build-out by CMRS and any attendant interference from those systems will occur any time soon, if ever. It is in these very rural and remote areas that NRECA’s members provide electric service. The *average* number of consumers to one mile of electric distribution line in all the areas served by electric cooperatives is 6.6.¹² NRECA therefore suggests, that the Commission consider whether licensees operating in some areas of the country, particularly remote, rural areas, should be treated differently, i.e. not required to relocate or retune until

⁷ NRECA comments at p. 8.

⁸ American Petroleum Institute comments at p. 12.

⁹ Lockheed Martin comments at p. 8.

¹⁰ NRPM at ¶ 14 and 18.

¹¹ NRPM at ¶ 18.

¹² NRECA Strategic Analysis, “Electric Utility Comparisons” (Feb. 2002).

interference actually occurs.

Under the Compromise Plan, NRECA understands that the priority for implementation of the proposed bandplan would have relocations begin with the most acute incidents of interference, i.e. the more populated, urban areas. The drafters of the Compromise Plan clearly recognize that the objective should be to remedy those areas with significant interference problems first. Assuming that the Commission does adopt some form of rebanding plan, NRECA agrees that such a priority system would be in the best interests of public safety communications. NRECA further suggests that relocations whether proposed on a channel-by-channel or region-by-region basis, should also recognize an urban to rural distinction. NRECA suggests that drawing such a line will further ensure that those areas where interference is most prevalent or likely, i.e. urban areas, will be addressed first. At some point, the Commission should consider whether moves in certain rural areas are necessary at all, given the associated coordination and implementation costs and the lack of concomitant benefit from those relocations.

III. MANY COMMENTERS SUPPORT A CASE-BY-CASE RESOLUTION PROCESS AND ENHANCED TECHNICAL RULES.

As suggested in its initial comments¹³, NRECA continues to urge the Commission to consider whether procedures can be established for case-by-case resolution of interference, either as a stand-alone solution, or as a first step to addressing public safety interference. Several other commenters also voiced their support for case-by-case resolution.¹⁴ Such procedures would necessarily require providing flexibility in

¹³ NRECA comments at pp. 11-12.

¹⁴ See e.g. comments of Madison County East Transit, American Petroleum Institute, Cellular Telecommunications and Internet Association, National Rural Telecommunications Cooperative, Consumers Energy, Private Wireless Coalition (on interim basis), Lockheed Martin (on interim basis),

Commission rules and spectrum licenses to allow individual 800 MHz licensees to craft solutions for themselves, including channel swapping with other licensees, and the application of enhanced technical rules to address specific, localized incidences of interference. Such procedures would include deadlines for compliance and dispute resolution processes should negotiations between the parties not result in a successful resolution. Technical rules, particularly those being suggested by UTC in its comments¹⁵ and the implementation of recommendations in the Best Practices Guide, as suggested by several parties in their initial comments¹⁶, should be further explored. The Commission should consider forming a technical committee, comprised of representatives from every type of 800 MHz frequency user –which may not necessarily correspond to the type of license held¹⁷– to determine the most efficient and effective technical solutions. The implementation of enhanced technical rules is necessary, because, as noted by the Association of Public-Safety Communications Officials-International, Inc. et. al., “band reconfiguration alone will not solve the problem.”¹⁸

This case-by-case approach has the advantage of permitting those who are causing interference and those who are affected by such interference to negotiate a mutually acceptable solution, where costs and benefits may be properly allocated to responsible parties, and without involving other, unaffected and non-interfering parties.

NAM/MRFAC (on interim basis), Commercial Radio & Television Inc., Fresno Mobile Radio, Southern LINC, Motient Communications, United States Cellular Corporation, Kenwood Communications Corporation, Access Spectrum LLC, Business Autophones, and RadioSoft (as short-term resolution).

¹⁵ UTC comments at pp. 14-20.

¹⁶ See e.g. comments of Snohomish County Washington, American Petroleum Institute, Private Wireless Coalition, Lockheed Martin, NAM/MRFAC, Coupe Communications, Preferred Communications Systems, Verizon Wireless, AT&T Wireless Services, Cellular Telecommunications & Internet Association, Kenwood Communications Corporation, Access Spectrum LLC, and RadioSoft.

¹⁷ For example, several rural electric cooperatives operate 800 MHz systems that they share with local public safety units.

¹⁸ APCO et. al. comments at p. 10.

Enhanced technical rules could also recognize that different solutions may be necessary in different areas to solve the interference problem.¹⁹ A further advantage of this approach is that it is considerably less disruptive, less costly, and less administratively burdensome than a wholesale rebanding of the 800 MHz spectrum. Given that the Commission itself expressed concern in the NPRM for the “daunting” challenge of rebanding²⁰, the possibilities presented by a more targeted, case-by-case resolution process and enhanced technical rules is worthy of the Commission’s serious consideration.

IV. IF THE COMMISSION ULTIMATELY DETERMINES THAT REALLOCATION OF THE 800 MHZ BAND IS NECESSARY, ADEQUATE FUNDING TO REIMBURSE DISPLACED LICENSEES FOR THEIR RELOCATION OR RETUNING COSTS MUST BE IDENTIFIED AND DEDICATED TO THIS PURPOSE.

One of the reasons NRECA decided it could not, at this point, fully endorse the Compromise Plan, is that it lacks a definite proposal regarding funding for displaced private wireless licensees. The drafters of the Compromise Plan themselves recognize this shortcoming, and note that discussions with Nextel to have Nextel reimburse displaced private wireless licensees are ongoing. Like the public safety community, NRECA is concerned about the availability of the \$500 million pledged by Nextel in its white paper. There is also some debate as to whether this amount will be sufficient to relocate all public safety licensees.²¹ Should this money be in doubt, why then should private wireless assume that any dollars will be forthcoming from Nextel to reimburse

¹⁹ Motorola comments at p. 11.

²⁰ NPRM at ¶ 88.

²¹ See e.g. comments of State of Florida, Forestry Conservation Communications Association, Dallas Area Rapid Transit, Public Safety Improvement Coalition, Virginia Department of Information Technology, City of Baltimore, San Diego County-Imperial County Regional Communications Systems, State of Hawaii,

them for their relocation costs? Further, if a priority-based implementation schedule is adopted in which those areas most prone to interference are addressed first, there is also the concern that funds could be exhausted before all displaced licensees are reimbursed.

As the American Mobile Telecommunications Association (“AMTA”) notes in its initial comments, “the Commission and the industry must develop a specific, viable plan for funding whatever changes are needed to alleviate the interference problem.”²² We agree with AMTA that, “The responsibility can not rest entirely on those who operate in the 800 MHz band, and most certainly not on those who do so without causing interference to public safety communications.”²³ NRECA concurs with the many other commenters who urge that the cost burden should fall upon those actually causing the interference.²⁴ As we noted in our initial comments²⁵, and here, in the rural areas in which NRECA’s members provide service, reconfiguring the 800 MHz band to address public safety interference is a “solution in search of a problem” and therefore not a solution that should be paid for by the rural consumers served by NRECA’s members.

V. CONCLUSION

NRECA respectfully requests that the Commission consider all alternatives, but particularly case-by-case resolutions and technical rules, to address public safety interference before implementing any form of rebanding plan. Should the Commission

County of Maui, City of Ft. Lauderdale, TRW-Ohio MARCS Program Office, Supreme Radio Communications, and National Ready Mix Concrete Association.

²² AMTA Comments at p. 8.

²³ *Id.*

²⁴ *See e.g.* comments of UTC, Questar Corporation, American Electric Power Co., Intel Corporation, M/A-Com Inc., Kenwood Communications Corporation, Coupe Communications, Preferred Communication Systems, Island SMR, Cascade Two Way Radio, Fresno Mobile Radio, United States Cellular Corporation, District of Columbia Office of Chief Technology Officer, Department of Information Technology for Fairfax County Virginia, City of Baltimore, City of Newport News, Boeing, Intel Corporation, and joint comments of Jamestown Communications and Midwest Management.

determine that a reconfiguration of the 800 MHz band is absolutely necessary to alleviate the interference problem, then we urge that the Commission do so with the following considerations in mind: (1) essential services being provided by the nation's rural electric cooperatives and other critical infrastructure providers must not be disrupted, and (2) fair compensation must be made to, and a funding source identified for, any relocations or retuning required by incumbent licensees.

As noted in these comments, we believe the Commission should first consider further study of the causes and incidences of public safety signal interference and an exploration of technical solutions involving representatives of every type of 800 MHz spectrum user. We believe that UTC has offered a number of technical solutions that can provide near-term relief for specific incidents of interference as well as long term operating standards to prevent future incidents of interference. Having conducted further inquiry and explored such proposals, the Commission could then be assured that any measures it ultimately adopts to address interference will be made with adequate information and input. If the Commission does decide to implement a rebanding plan, then we would urge the Commission to give careful consideration to the Compromise Plan, provided that adequate funding can be identified to reimburse all relocated licensees.

Respectfully submitted,

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²⁵ NRECA comments at p. 7.

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